

**PATENT**  
**Application No. 09/921,504**

**Docket No. RSW920010025US1**  
**Page 4**

**REMARKS**

In the Office Action, the Examiner indicated that claims 1 through 28 are pending in the application and the Examiner rejected all claims.

**Rejection of the Claims under 35 U.S.C. §103(a)**

On page 2 of the Office Action, the Examiner rejected claims 1-28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,867,713 to Shrader ("Shrader") in view of U.S. Patent No. 6,353,926 to Parathesarathy et al. ("Parathesarathy").

**The Present Invention**

The present invention provides an improved system for installation of to-be-installed ("TBI") software packages and any software prerequisites needed to install and/or run the TBI software. In accordance with the present invention, an installation wizard is provided having panels that prompt a user to identify a location where a software prerequisite can be found prior to installing the TBI software. The wizard can optionally allow for the finding and inclusion of file locations via a standard file browse dialog or via a URL. The prerequisite information is then fully integrated into the install process as part of a "super image" that is transferred to one or more target devices. Each target device then executes the super image to install the TBI software and the prerequisites. From the perspective of the installer, the installation proceeds seamlessly and without interruption. The present invention essentially

**PATENT**  
**Application No. 09/921,504**

**Docket No. RSW920010025US1**  
**Page 5**

allows the temporary "virtual bundling" of licensed software and non-redistributable software prerequisites into a single installation that appears seamless to an end user.

**U.S. Patent No. 5,867,713 to Shrader et al.**

U.S. Patent No. 5,867,713 to Shrader et al. ("Shrader") teaches a mechanism for installing applications in a network. Of relevance to the present invention is the mechanism by which prerequisite files are validated, and added when missing. If a scan of file directories indicates the presence of a prerequisite, the system assumes the prerequisite is there, even though it might not be (e.g., there could be a directory which might indicate the presence of a prerequisite, but the files that should be in the directory might be missing). Further, when prerequisites are found to be missing from the target machine, they are served to the target machine based on install operations executed by the network installation engine, not by the target machine.

**U.S. Patent No. 6,353,926 to Parathesarathy et al. ("Parathesarathy")**

U.S. Patent No. 6,353,926 to Parathesarathy et al. ("Parathesarathy") teaches a method for allowing a software vendor to notify a user of a software update. A user subscribes to a "software update channel" and a shortcut link is created that identifies the application(s) to be upgraded. When a new update is detected, the software channel delivers the software update to the user's computer. The Examiner relies upon Parathesarathy for an alleged teaching of

**PATENT**  
**Application No. 09/921,504**

**Docket No. RSW920010025US1**  
**Page 6**

the inclusion of location information of software prerequisites as part of the information provided by the software update channel.

**The Examiner has not Established a *prima facie* Case of Obviousness**

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

**MPEP 2143**

Applicant has canceled claims 1-14, 16-20, and 22-28 and has amended independent claim 15 to include all of the limitations of claims 16-20. Thus, the present claimed invention not only claims the "super image" but also includes the specific means for creating the super image and means for using a populated object model to install the TBI software application. Further, the present claimed invention includes means for instantiating one or more objects according to the defined object model, whereby an object for the TBI software application and one or more component objects for each of the prerequisites are instantiated. As explained in the specification of the present application, what this means is that the location information of the software prerequisite is essentially bundled ("virtually bundled") with the TBI software application, and the prerequisite itself can be virtually bundled with the TBI software application as well. Thus, prerequisites which are non-redistributable, i.e., they are made available for use by cannot be bundled with the TBI software application, can be virtually bundled so that they may be used, and then deleted, thereby not raising any software licensing issues.

**PATENT**  
**Application No. 09/921,504**

**Docket No. RSW920010025US1**  
**Page 7**

By contrast, neither Shrader nor Parathesarathy teach nor suggest the obtaining of location information for the software prerequisites and the inclusion of this location information as part of a super image that is delivered to the local machines for installation with the super image being created in the claimed manner. Further, since they do not teach or suggest the formation of the super image, they do not teach or suggest the claimed means for creating the super image.

By having the capability to identify and include location information for the prerequisites prior to delivery of the super image to the local machine(s), the seamless installation process described above is possible. Such a seamless installation process is not possible using the Shrader system, the Parathesarathy system, nor any combination thereof. Accordingly, independent claim 15, and all claims depending therefrom, patentably define over Shrader and Parathesarathy and are in condition for allowance.

#### Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

**PATENT**  
**Application No. 09/921,504**

**Docket No. RSW920010025US1**  
**Page 8**

A Petition for extending the period for response, along with a Credit Card Payment Form are enclosed. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

APRIL 11, 2005  
Date

Mark D. Simpson  
Mark D. Simpson, Esquire  
Registration No. 32,942

**SYNNESTVEDT & LECHNER LLP**  
2600 ARAMARK Tower  
1101 Market Street  
Philadelphia, PA 19107

Telephone: (215) 923-4466  
Facsimile: (215) 923-2189

M:\MSIMPSON\CLIENTS\IBM RALEIGH RSW\24853 USA\PATENT OFFICE\REPLY TO FINAL ACTION OF 11102004.DOC